

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1145

AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-1-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) This section does not apply to the disposal of real property under section 5, 5.5, **5.9**, or 8 of this chapter.

(b) Disposal of real property under this chapter is subject to the approval of:

- (1) the executive of the political subdivision or agency; or
- (2) the fiscal body of the political subdivision or agency, if there is no executive.

The executive or fiscal body may not approve a disposal of property without conducting a public hearing after giving notice under IC 5-3-1. However, in a municipality the executive shall designate a board or commission of the municipality to give notice, conduct the hearing, and notify the executive of its recommendation.

(c) Except as provided in section 3.2 of this chapter, in addition, the fiscal body of a unit must approve:

- (1) every sale of real property having an appraised value of fifty thousand dollars (\$50,000) or more;
- (2) every lease of real property for which the total annual rental payments will be twenty-five thousand dollars (\$25,000) or more; and
- (3) every transfer of real property under section 14 or 15 of this

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chapter.

SECTION 2. IC 36-1-11-4, AS AMENDED BY P.L.188-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A disposing agent who wants to sell or transfer real property must comply with this section, except as permitted by section 4.1, 4.2, 5, 5.5, 5.7, **5.9**, 8, 14, or 15 of this chapter.

(b) The disposing agent shall first have the property appraised by two (2) appraisers. The appraisers must be:

- (1) professionally engaged in making appraisals;
- (2) licensed under IC 25-34.1; or
- (3) employees of the political subdivision familiar with the value of the property.

The appraisers shall make a joint appraisal of the property.

(c) After the property is appraised, the disposing agent shall publish a notice in accordance with IC 5-3-1 setting forth the terms and conditions of the sale and, when subsection (e) is employed, may engage an auctioneer licensed under IC 25-6.1 to advertise the sale and to conduct a public auction. The advertising conducted by the auctioneer is in addition to any other notice required by law and shall include a detailed description of the property to be sold stating the key numbers, if any, of the tracts within that property. If the disposing agent determines that the best sale of the property can be made by letting the bidders determine certain conditions of the sale (such as required zoning or soil or drainage conditions) as a prerequisite to purchasing the property, the disposing agent may permit the bidders to specify those conditions. The notice must state the following:

- (1) Bids will be received beginning on a specific date.
- (2) The sale will continue from day to day for a period determined by the disposing agent of not more than sixty (60) days.
- (3) The property may not be sold to a person who is ineligible under section 16 of this chapter.
- (4) A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:
 - (A) beneficiary of the trust; and
 - (B) settlor empowered to revoke or modify the trust.

(d) A bid must be open to public inspection. A bidder may raise the bidder's bid, and subject to subsection (e), that raise takes effect after the board has given written notice of that raise to the other bidders.

(e) The disposing agent may also engage an auctioneer licensed under IC 25-6.1 to conduct a sale by public auction. The auction may be conducted either at the time for beginning the sale in accordance

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with the public notice or after the beginning of the sale. The disposing agent shall give each bidder who has submitted a bid written notice of the time and place of the auction.

(f) The disposing agent may, before expiration of the time set out in the notice, sell the property to the highest and best bidder. The highest and best bidder must have complied with any requirement under subsection (c)(4). However, the disposing agent may sell the property for less than ninety percent (90%) of the appraised value of the tracts only after having an additional notice of the sale published in accordance with subsection (c). The disposing agent may reject all bids.

(g) If the disposing agent determines that, in the exercise of good business judgment, the disposing agent should hire a broker or auctioneer to sell the property, the disposing agent may do so and pay the broker or auctioneer a reasonable compensation out of the gross proceeds of the sale. However, the disposing agent must still comply with the procedural requirements of this section. The disposing agent may hire one (1) of the appraisers as the broker or auctioneer.

SECTION 3. IC 36-1-11-5.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.9. (a) As used in this section, "abutting landowner" has the meaning set forth in section 5(a) of this chapter.**

(b) As used in this section, "real property acquired by tax default" means the following:

- (1) Real property for which a county holds a tax deed issued under IC 6-1.1-25.**
- (2) Real property acquired by a political subdivision from a county under section 8 of this chapter if at the time of transfer the county held a tax deed issued under IC 6-1.1-25 for the real property.**

(c) Notwithstanding sections 4, 4.1, 4.2, and 5 of this chapter, and subject to the procedures described in subsections (d) and (e), a disposing agent of a political subdivision may sell or transfer real property acquired by tax default without consideration or for a nominal consideration to an abutting landowner.

(d) A disposing agent who desires to transfer real property acquired by tax default to an abutting landowner shall send notice by certified mail to all abutting landowners. The notice must identify the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include a statement that:

- (1) the disposing agent is authorized to transfer the property**

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for no consideration or for nominal consideration;

(2) the property may not be sold to a person who is ineligible under section 16 of this chapter; and

(3) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

(e) Not earlier than fourteen (14) days after a disposing agent sends the notice described in subsection (d) to the abutting landowners of a tract, the disposing agent shall conduct the negotiation and sale of the tract under this section as follows:

(1) If only one (1) eligible abutting landowner makes an offer to purchase the tract, then subject to section 16 of this chapter and without appraisal or further notice, the disposing agent shall offer to negotiate for the sale of the tract with that abutting landowner.

(2) If more than one (1) eligible abutting landowner submits an offer to purchase the tract, the other eligible abutting landowners who submit offers shall be informed of the highest offer received and be given an opportunity to submit one (1) additional offer. The tract shall be sold to the eligible abutting landowner who submits the highest offer for the tract and who complies with any requirement under subsection (d)(3).

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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